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Attorney for defendant David Reid

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

CR-05-1849 JH

vs.

DAVID REID,

Defendant.

MEMORANDUM REGARDING *JAMES* HEARING

The Defendant David Reid, by his counsel undersigned, hereby submits this Memorandum with regard to the upcoming *James* hearing.

It is the understanding of counsel that the function of the hearing is essentially a preemptive Motion *in Limine* on the threshold question regarding co-conspirator statement admission of whether or not there was

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1 a conspiracy. The Government has correctly stated that the test at this  
2 hearing (as opposed to at the trial) is relaxed and that summary testimony  
3 may be utilized with some limits. The primary question to be resolved is  
4 whether there was a conspiracy.<sup>1</sup>

5  
6 The evidentiary foundation for admission of the statements must still  
7 be laid by the Government at trial pursuant to more stringent evidentiary  
8 rules and the specific factual context issues (membership in the conspiracy  
9 and whether the statements were in furtherance thereof) will not be  
10 resolved by, the *James* hearing. Defense counsel retain all objections to  
11 the admissibility of these statements at trial even if the Court makes a  
12 preliminary finding that, based on relaxed the evidentiary rules at the  
13 *James* hearing and the use of summary testimony, there is evidence that a  
14 conspiracy existed.  
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23 <sup>1</sup> A related issue what that the conspiracy or conspiracies consisted  
24 of. For example, was there one overall conspiracy, or were there multiple  
25 conspiracies which would limit the admission of various statements to  
26 those individual conspiracies.

1 RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of March, 2009

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6 BY /S/ Walter Nash  
7 WALTER NASH  
8 Attorney for Defendant Reid  
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was delivered to opposing counsel and all other counsel of record *via* the CM/ECF system this 30<sup>th</sup> day of March, 2009

/s/ Walter Nash

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